

# **EXHIBIT C**

**quinn emanuel** trial lawyers | los angeles

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March 21, 2005

VIA FACSIMILE [843-529-1223] AND U.S. MAIL

Peter Waters  
Chocolate Perfection, Inc.  
2460 Remount Rd.  
Suite 111  
Charleston, SC 29406

Unauthorized Use of the Academy's Intellectual Property

Dear Mr. Waters:

We represent the Academy of Motion Picture Arts and Sciences ("the Academy"). The Academy recently became aware that Chocolate Perfection, Inc., among other things, has been selling chocolate and confectionary products, including without limitation, the "Small 1 ounce Star Award" and the "Large 8 ounce Star Award." These items are strikingly, substantially, or confusingly similar to the Academy's "©Oscar®" statuette. Further, the use of the "©Oscar®" statuette likeness, or any statuette or depiction strikingly, substantially, or confusingly similar thereto, is unauthorized. Printouts of the Star Awards advertised on Chocolate Perfection, Inc.'s Web site are enclosed.

As you are undoubtedly aware, the Academy annually confers copies of its Academy Award of Merit, popularly known as the "©Oscar®," to persons who make outstanding contributions in the motion picture industry. Indeed, the OSCAR® word mark is a famous mark that deserves the strongest form of protection. See Academy of Motion Picture Arts and Sciences v. Creative House Promotions, Inc., 944 F.2d 1446, 1455 (9th Cir.1991) (holding that the "Oscar" design mark "should be given the strongest possible protection against infringement"). As a result of the long and continuous use of its OSCAR® mark in conjunction with its services, the Academy has gained valuable goodwill and a strong customer recognition in its trademark throughout the world. To protect these valuable rights, the Academy has obtained federal registrations for its

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NEW YORK | 335 Madison Avenue, 17th Floor, New York, New York 10017 | TEL 212-702-8100 FAX 212-702-8200  
SAN FRANCISCO | 50 California Street, 22nd Floor, San Francisco, California 94111 | TEL 415-875-6600 FAX 415-875-6700  
SILICON VALLEY | 555 Twin Dolphin Drive, Suite 560, Redwood Shores, California 94065 | TEL 650-801-5000 FAX 650-801-5100  
PALM SPRINGS | 45-025 Manitou Drive, Suite 10, Indian Wells, California 92210 | TEL 760-345-4757 FAX 760-345-2414  
SAN DIEGO | 4445 Eastgate Mall, Suite 200, San Diego, California 92121 | TEL 858-812-3107 FAX 858-812-3336

OSCAR® word mark pursuant to Certificate of Registration Nos. 1,096,990, 1,118,751, and 2,021,582. Any unauthorized commercial use of the aforementioned mark constitutes actionable trademark infringement.

Further still, the "©Oscar®" statuette is a copyrighted property of the Academy, registered pursuant to Certificate of Registration No. G 38512 and Certificate of Registration of a Claim to Renewal of Copyright No. R 443432. In addition, the Academy has registered the "©Oscar®" statuette as a trademark, pursuant to Certificate of Registration Nos. 1,028,635, 1,895,980, and 1,960,182. The Academy's registrations are valid, current, and incontestable. Any unauthorized sale or commercial use of a likeness of the statuette constitutes actionable copyright and trademark infringement. Academy of Motion Picture Arts and Sciences v. Creative House Promotions, Inc., 944 F.2d 1446, 1455 (9th Cir. 1991).

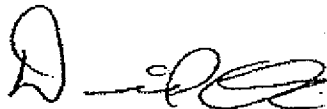
To protect its valuable intellectual properties, the Academy must request that Chocolate Perfection, Inc. provide written confirmation that it will permanently cease and desist from any unauthorized use of the OSCAR® word mark. The Academy must also request that Chocolate Perfection, Inc. provide written confirmation that it will permanently cease and desist from any unauthorized use of the "©Oscar®" statuette likeness, or any statuette or depiction strikingly, substantially, or confusingly similar thereto. Further, the Academy must request that Chocolate Perfection, Inc. agree to:

- (1) cease all advertising, display, manufacturing, rental, sale and distribution of ©Oscar® statuette copies or depictions or works substantially or strikingly similar thereto—including the Star Awards;
- (2) deliver up to the Academy any and all copies or depictions of the ©Oscar® statuette, or works or depictions substantially or strikingly similar thereto, in Chocolate Perfection, Inc.'s possession, custody or control—including the Star Awards;
- (3) advise the Academy of the total number of advertisements and print catalogs distributed that use the OSCAR® word mark, or depict the ©Oscar® statuette or works or depictions substantially similar thereto;
- (4) remove any and all instances of the OSCAR® word mark, the ©Oscar® statuette or works substantially and strikingly similar thereto from its Web site and advertising materials;
- (5) deliver up to the Academy any and all molds and models used to manufacture the ©Oscar® statuette likenesses, as well as all tools specially designed for creating them or, in the alternative, identify by name, address and contact person all manufacturers and distributors of any and all of the chocolate or confectionary products bearing the OSCAR® word mark or the ©Oscar® statuette likenesses;

- (6) identify by name, address and contact person all purchasers of all of the chocolate or confectionary products bearing the OSCAR® word mark or the ©Oscar® statuette likenesses;
- (7) advise the Academy of the gross revenues and profits received from the sale of all chocolate or confectionary products bearing the OSCAR® word mark or the ©Oscar® statuette likenesses;
- (8) provide its written assurance that Chocolate Perfection, Inc. will not again use the ©Oscar® statuette, or works or depictions substantially or strikingly similar thereto, in any manner; and
- (9) provide its written assurance that Chocolate Perfection, Inc. will not again use the OSCAR® word mark or otherwise advertise its products or services in a manner suggesting an association with, or endorsement by, the performing arts.

If we do not receive written confirmation of Chocolate Perfection, Inc.'s agreement to the foregoing terms by the close of business on March 28, 2005, the Academy will have no choice but to pursue its legal options. We await your timely response.

Very truly yours,



David W. Quinto

DWQ

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Enclosures

cc: Bruce Davis  
Ric Robertson  
Scott Miller, Esq.

# Chocolate Perfection

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Catalog Code: C1108  
Base Price: \$6.46 As Low As: \$6.64

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Small 1 ounce Star Award

Catalog Code: A1F  
Base Price: \$1.96 As Low As: \$1.32

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Medium 3

Catalog Code: A3F  
Base Price: \$5.86 As Low As: \$5.86

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Large 8 ounce Star Award

Catalog Code: A8F  
Base Price: \$11.00 As Low As: \$7.39

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